

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO.21035 OF 2002

DATE: 6-4-2006

Between:

N.Bhaskara Reddy Petitioner

And

Sri Acharya N.G.Ranga Agricultural University,
Hyderabad Respondent

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO.21035 OF 2002

ORDER:

The petitioner, hitherto an Assistant Librarian in the S.V. Agricultural College at Tirupathi seeks a direction from this Court that he be continued in service till he attains the age of superannuation of 60 years on par with teachers of the Respondent University and that his terminal benefits be settled on the said basis.

The case of the petitioner, as stated in the affidavit filed in support of the writ petition, is that he is a B.Sc graduate from Osmania University, Hyderabad and was recruited as a Lower Division Clerk in the Extension Education Institute, College of Agriculture, Rajendranagar, Hyderabad, that he was promoted as an Assistant Librarian on 31.12.1970, that he obtained M.L.Sc. degree from Mysore University and ever since has been holding the post of Assistant Librarian in the respondent University. Petitioner would rely on G.O.Ms.No. 906 dated 20.12.1998 whereunder the A.P. Revised UGC scales of pay 1986 were promulgated. These rules were specifically extended to teachers, librarians and physical educational personnel in the respondent University. Petitioner would contend that since conditions of service for librarians and physical directors were kept at par with the teaching cadre, they are entitled to be treated on par with the

teachers employed by the University, for whom the age of superannuation was fixed at 60 years. Petitioner would refer to the case of Dr. B.D. Eswar Reddy, University Librarian who had attained the age of 58 years in August 1996 but was retained in service till August 1998 till he attained the age of 60 years. Reference is also made to Sri K. Laxmaiah, Assistant Director of Physical Education who was continued in service till he attained the age of 60 years, and was allowed to retire with effect from 30th June 1998. Petitioner would also refer to the case of Sri P.S. Ram Mohan Rao, Physical Director in the Agricultural College Bapatla who, pursuant to the judgment of the Supreme Court in Civil Appeal No. 898 of 1992 dated 31.07.1997, was continued in service till he attained the age of 60 years. Reference is made to other Universities where under librarians and physical directors were recognized as part of the teaching faculty and had been extended the benefit of being continued in service till they attained the age of superannuation of 60 years. Reference is also made to G.O.Ms.No. 32 dated 05.02.1996 wherein the state government recognized that Graduate Librarians working in the colleges in the State, were part of the teaching staff.

Contending that the action of the University, in seeking to retire him from service on 31.10.2002 on the ground that he attained the age of 58 years, was arbitrary and discriminatory and that he was entitled to be continued in service till he attained the age of 60 years, the present writ petition is filed. Petitioner would contend that Assistant Librarians have to train and teach new entrants to professional courses regarding the use of modern facilities of a Library and Information Sciences, that they have to

conduct orientation courses to various other Teaching/Research faculty members, that Assistant Librarians are required to perform such duties as to render sufficient and adequate assistance for carrying out research work both by the faculty and research Scholars, that they have to interact on sessions with faculty/research scholars for the purpose of marshalling on going research work and projects on related topics of thesis and that with the improvement of Information Technology, duties performed by Assistant Librarians, both with the students as well as teaching/research faculty had increased manifold. Petitioner would contend that Assistant Librarians are liable to be recognized as a teacher of the University and consequently entitled to continue in service till they attain the age of superannuation of 60 years. He would further submit that, under AHRDP, teachers were deputed for training in India and abroad and that librarians were also treated as teaching staff and sent for training. Petitioner would contend that he was also deputed to undergo training in India similar to the teaching faculty.

The Registrar of the respondent University, in his counter-affidavit, would submit that Dr. D.B. Eswara Reddy was appointed as an Assistant Librarian in 1986 under the first Statute of the University and that officers of the University appointed prior to 1978, were entitled to continue in service till they attain the age of 60 years vide G.O.Ms.No.2081 dated 09.08.1965. It is stated that Sri Lakshmaiah, Assistant Director of Physical Education, was permitted to continue in service till he attained the age of 60 years as per the recommendations of the Deans Committee, as ICAR 0+1 credit course in Physical Education was introduced by the Academic Council in all colleges and accordingly Physical

Education teachers came under the definition of 'Teacher'. Respondent would submit that the Supreme Court, in Civil Appeal No. 898 of 1992 dated 31.07.1997, had held that Physical Education personnel would fall within the definition of 'Teachers' and hence were eligible to be continued upto 60 years of age and accordingly Sri P.S. Ram Mohan Rao, Physical Director, was continued in service till he attained the age of 60 years. Respondent would contend that the judgment of the Supreme Court pertains only to Physical Education teachers and did not cover librarians. Reference is made to G.O.Ms.No. 32 dated 05.02.1996, to contend that the State Government had merely ordered that Graduate Librarians working in government junior colleges be treated as part of the teaching staff without any financial commitment either now or in future, and that the said G.O. does not provide for the age of superannuation of Librarians to be on par with teachers. Respondent would contend that since the issue regarding age of superannuation involves financial commitment, the said G.O. is not made applicable with regards the age of superannuation. Respondent would submit that the age of superannuation of librarians in Government Degree Colleges as well as Government Junior Colleges is 58 years and not 60 years. Comparison with other Universities is rejected contending that the respondent University has not recognized library staff as part of its teaching staff. Respondent would further contend that the UGC has not recommended any age of retirement for Teachers and Librarians and as per the University regulations a Teacher is defined as one who is involved in teaching, research and guidance and that the Librarian is not directly performing any of these functions in the University. Respondents would state that Sri A.

Sreeramulu and other assistant librarians, who were recruited by the University, were retired from service on attaining the age of 58 years. Respondents would enumerate the duties being discharged by the petitioner as an Assistant Librarian as under:

1. He shall work under the control and supervision of the Associate Dean (Principal) of the concerned College.
2. He shall maintain the Library and organize the Library services in the manner most beneficial to the students and Teachers.
3. To purchase books periodicals and other reading material with the approval of the Associate Dean.
4. Purchase Library requisites such as Library racks, Catalogue cards, registers etc., to the extent of budget provision.
5. Maintain accession registers and other records.
6. He shall give due publicity to the Library services and Library rules by conducting Library tour to the fresh students.
7. He shall classify, Catalogue and Index the books and other reading material.
8. He shall arrange for issue and return of books in general collection and also Text Book collection.
9. On request he shall provide reference service to the Library users by locating the required information from books and periodicals.
10. He shall conduct annual stock verification and submit the report to the Principal.
11. Arrange book exhibition as and when required for selecting the latest books.
12. He shall keep open the Library by arranging shift duties for evening shift duties and holidays working by rotation of the supporting staff.
13. He shall build up the data base of books and periodicals by computerizing the Library operations.
14. He shall be responsible for proper care and upkeep of all books, periodicals and back volumes of periodicals in the Library.
15. He shall provide Photo copy service (Xerox service) to the students and teachers on payment basis from the Library reading material.
16. Conduct orientation class to fresh students.
17. Computerisation and net working of libraries.

Respondents would deny the contention that Assistant Librarians are to train and teach new entrants to the professional courses and submit that the nature of duties of Assistant Librarians are general in nature. Respondents would state that the

Assistant Librarians do not teach any course as no course under library science is listed in the Course Catalogue of under graduate and post graduate courses in the Universities, that the petitioner did not teach any course in the University by taking classes and that merely explaining the rules and regulations, with regards the use of modern library facilities and Information Sciences, does not constitute 'Teaching'. Respondents would contend that conducting of orientation courses would not amount to regular teaching and that Assistant Librarians do not take classes on par with the teaching staff of the University. According to the respondents, in the absence of any specific teaching courses or classes being taken to students by the petitioner as an Assistant Librarians, it could not be said that he satisfied the requirement of a 'Teacher'.

Section 2(n) of the A.P. Agricultural Universities Act reads thus:

"2. (n) 'teacher' includes a professor, reader, lecturer or other person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research or extension programmes, and any person declared by the statutes to be a teacher;"

Thus any person appointed or recognized by the University, for the purpose of imparting instruction or conducting and guiding research or extension programmes, falls within the definition of a teacher. Among the categories, which fall within the definition of a teacher under Section 2(n) of the Act, include a person declared by the Statutes to be a teacher. While the several proceedings referred to above would undoubtedly support the contention of Sri Abhinand Kumar Shavili, learned counsel for the petitioner, that the university had, on occasions, treated Assistant Librarians to be part of the teaching faculty, the requirement under Section 2(n) is

that a person must be recognized as a teacher under the Statutes. Section 2(l) defines “Statutes” to mean the statutes of the university made under the Act. Chapter VIII of the Act deals with Statutes and Regulations and under Section 38 thereof the statutes may provide for all or any of the matters prescribed thereunder. Section 39 provides for the manner in which Statutes are to be made. It is only if a person is declared by the “Statutes” of the University to be a teacher, would he fall within the definition of a “teacher” under Section 2(n) of the Act. While it is true that certain proceedings of the university indicate that the authorities of the university had, on a few occasions, referred to Assistant Librarians as part of the teaching faculty, that would, by itself, not bring Assistant Librarian within the definition of a ‘teacher’ since it is not in dispute that the Assistant Librarians have not been declared by the “Statutes” made under the Act to be a ‘teacher’. Even in **P.S. Ramamohan Rao**¹, the Supreme Court had not based its conclusions entirely on such communications and had merely held that these communications supported the view taken by it.

The main test prescribed under Section 2(n) of the Act, to fall within the definition of a “teacher”, is whether the person, appointed or recognized by the University, imparts instructions or conducts and guides research or extension programmes.

In **P.S. Ramamohan Rao**¹, the Supreme Court held thus:-

“.....From the aforesaid affidavit, it is clear that a Physical Director has multifarious duties. He not only arranges games and sports for the students every evening and looks after the procurement of sports material and the maintenance of the grounds but also arranges inter-class and inter-college tournaments and accompanies the students’ team when they go for the inter-university tournaments. For that purpose it is one of his important duties to

guide them about the rules of the various games and sports. It is well known that different games and sports have different rules and practices and unless the students are guided about the said rules and practices they will not be able to play the games and participate in the sports in a proper manner. Further, in our view, it is inherent in the duties of a Physical Director that he imparts to the students various skills and techniques of these games and sports. There are a large number of indoor and outdoor games in which the students have to be trained. Therefore, he has to teach them several skills and techniques of these games apart from the rules applicable to these games.....

.....In our view, the learned Judges did not go into the meaning of the word “teacher” in the main part of the clause nor assessed correctly the effect of the material evidence on record. The learned Judges observed that assuming Physical Directors imparted instructions to their students, unless the University recognised them as teachers they could not claim the benefit of Section 2(n) of the Act. Obviously the learned Judges were referring to the last part of Section 2(n) which includes persons other than those enumerated in the inclusive part if so recognised by the University. As we have held that the Physical Directors come within the main part of the definition of “teacher”, it is in our opinion not necessary that they should be separately recognised as teachers by an order or statute of the University.....

.....We are unable to agree. It may be that the Physical Director gives his guidance or teaching to the students only in the evenings after the regular classes are over. It may also be that the University has not prescribed in writing any theoretical and practical classes for the students so far as physical education is concerned. But as pointed by us earlier, among various duties of the Physical Director, expressly or otherwise, are included the duty to teach the skills of various games as well as their rules and practices. The said duties bring him clearly within the main part of the definition as a “teacher”. We, therefore, do not accept the contention raised in the additional counter-affidavit of the University.....”

The Supreme Court, on taking note of the averments in the counter affidavit of the University, wherein the duties of physical directors were enumerated, and to certain letters of correspondence wherein physical directors were treated as teachers held that these communications supported the view which the Court had taken and since physical directors teach students about several techniques and skills of games apart from the rules applicable thereto, physical directors were undoubtedly

teachers. The duties assigned to a physical director included teaching students the several skills and techniques apart from the rules applicable to the games. The Training imparted to students, on the various techniques required to play these games, formed the basis for the Supreme Court to conclude that Physical Directors of the A.P. Agricultural University were “teachers”.

The question, therefore, is whether the petitioner, as an Assistant Librarian, had imparted instructions or had conducted and guided research or extension programmes. From the counter affidavit, it is clear that while the respondent- university intended to offer Library Science as a course of study, the said decision has not yet been implemented and Library Science Courses have not yet been offered by the respondent-university. As such none of the Assistant Librarians have, as yet, taught library science, as a course, to the students of the university.

The various duties and responsibilities of assistant librarians, as enumerated in the counter affidavit, include, conducting orientation classes to fresh students. The orientation programmes, as is clear from the documents filed along with the writ petition, are conducted at the beginning of each academic year for a period of two hours on one single day. Even within this two hours period, five persons address students, one among whom is the Assistant Librarian, who informs students of the way in which the library facilities are to be used. Since five speakers address students within a two hours period, the Assistant Librarian would, at best, be addressing students for a half an hour duration. A thirty minute speech, once a year, informing students about the utility of the library and the manner in which the facilities therein are required to be used, cannot, by any yardstick, be said to

amount to imparting instruction or conducting and guiding research or extension programmes.

Since the petitioner, as an Assistant Librarian, has not imparted instructions nor had conducted and guided research or extension programmes, he does not fall within the main part of the definition of “teacher” under Section 2(n) of the Andhra Pradesh Agricultural Universities Act. Since the petitioner is not a “teacher” and does not form part of the teaching faculty, he is not entitled for being treated on par with teachers and is not entitled to continue in service till the age of 60 years, which the teachers of respondent – university are entitled to.

The writ petition fails and is accordingly dismissed. However in the circumstances without costs.

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